

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

AMMAR AKKAD,)	
Appellant,)	
)	
v.)	C.A. No. 12A-03-015 FSS
)	(E-FILED & U.S. MAIL)
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
Appellee.)	

Submitted: November 9, 2012
Decided: January 2, 2013

ORDER

**Upon Appeal from the Unemployment Insurance Appeal Board –
*DISMISSED.***

1. In March 2010, Appellant, Ammar Akkad, applied for unemployment benefits, which he received until November 2010. Appellant applied again, receiving benefits from December 19, 2010 to January 29, 2011.

2. On February 18, 2011, a claims deputy disqualified Appellant from receiving benefits because he fraudulently underreported his income.¹ The

¹ 19 *Del. C.* § 3314(6) (“An individual shall be disqualified for benefits if the Department determines such individual has made a false statement or representation knowing it to be false A disqualification issued pursuant to this subsection shall be considered a disqualification due to fraud.”).

claims deputy also required Appellant to repay the excess benefits. Appellant timely appealed to an appeals referee, who heard the appeal on May 20, 2011.

On July 7, 2011, the referee upheld the claims deputy. Appellant timely appealed to the Board, but it dismissed Appellant's appeal when he failed to show for his scheduled hearing. On September 1, 2011, Appellant provided the Board a valid reason for not appearing at his hearing, and on September 15, 2011, the Board remanded to a second appeals referee.

On October 3, 2011, the second appeals referee heard Appellant's appeal. On October 5, 2011, the appeals referee upheld the claims deputy's decision again, holding, "[Appellant] is liable for an overpayment." Appellant timely appealed to the Board.

On November 16, 2011, the Board heard Appellant's appeal. On November 30, 2011, after a full hearing, the Board affirmed the referee's decision. The mailing notice stated the Board's decision became final on December 10, 2011 and Appellant had ten days from that date to timely appeal to the Superior Court.² Thus, Appellant had to timely appeal by December 20, 2011. Appellant appealed on March 23, 2012. The Board moved to dismiss Appellant's appeal as untimely on November 9, 2012.

² 19 *Del. C.* § 3323.

3. An appeal's timely filing is mandatory and jurisdictional and may not be heard if it is not properly perfected within the statutory timeframe.³ This requirement may not be excused absent extraordinary circumstances attributed to court personnel, not the appellant.⁴ Even small deviations are unacceptable.⁵

4. Here, Appellant appealed almost three months after the Board's decision finalized and the 10-day appeal period ended. Appellant failed to provide an extraordinary circumstance explaining his lapse. Thus, Appellant fails to invoke this court's jurisdiction.

For the foregoing reasons, Appellant's appeal is **DISMISSED** as untimely filed. The Board's December 10, 2011, decision upholding Appellant's requirement to repay overpaid benefits is **AFFIRMED**.

IT IS SO ORDERED.

/s/ Fred S. Silverman
Judge

cc: Prothonotary
pc: Ammar Akkad, *pro se* Appellant - via U.S. Mail
Caroline Lee Cross, Deputy Attorney General
Tom Ellis, Esquire

³ *Draper King Cole v. Malave*, 743 A.2d 672, 673 (Del. 1999).

⁴ *Id.*

⁵ *See Id.* (dismissing an Industrial Accident Board appeal filed five days late). *See also Giordano v. Marta*, 723 A.2d 833 (Del. 1998) (dismissing a Court of Chancery appeal filed a day late).